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HOUSE BILL 532

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Raymond G. Sanchez

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT TO REQUIRE CERTAIN MUNICIPAL POLICE MEMBERS AND MUNICIPAL FIRE MEMBERS TO HAVE A CERTAIN NUMBER OF YEARS IN A TWENTY-YEAR RETIREMENT PLAN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-8 NMSA 1978 (being Laws 1987, Chapter 253, Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT--SUSPENSION. --

A. A member may retire upon fulfilling the following requirements:

(1) a written application for normal retirement, in the form prescribed by the association, is filed with the association prior to the selected date of retirement;

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1 (2) employment is terminated with all
2 employers covered by any state system or the educational
3 retirement system prior to the selected date of retirement;

4 (3) the member selects an effective date of
5 retirement that is the first day of a calendar month; and

6 (4) the member meets the age and service
7 credit requirement for normal retirement specified in the
8 coverage plan applicable to the member. The coverage plan
9 applicable to the member is the plan for which the member is
10 eligible and that produces the earliest retirement date.

11 B. The amount of normal retirement pension is
12 determined in accordance with the coverage plan applicable to
13 the member.

14 C. If a member retires and is subsequently
15 employed by any affiliated public employer, the retired
16 member's pension will be suspended effective the first day of
17 the month following the month in which the previously retired
18 member earns one hundred percent or more of the amount that
19 causes a decrease or suspension of an old age benefit under
20 the federal social security program or fifteen thousand
21 dollars (\$15,000), whichever is less. When the pension is
22 suspended, the following conditions shall apply:

23 (1) the retired member who is subsequently
24 employed by an affiliated public employer shall become a
25 member. The previously retired member and the subsequent

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1 affiliated public employer shall make the required employee
2 and employer contributions, and the previously retired member
3 shall accrue service credit for the period of subsequent
4 employment; and

5 (2) when a previously retired member
6 terminates the subsequent employment with an affiliated public
7 employer, he shall retire according to the provisions of the
8 Public Employees Retirement Act, subject to the following
9 conditions:

10 (a) payment of the pension shall resume
11 in accordance with the provisions of Subsection A of this
12 section;

13 (b) unless the previously retired
14 member accrued at least three years of service credit on
15 account of the subsequent employment, the recalculation of
16 pension shall: 1) employ the form of payment selected by the
17 previously retired member at the time of the first retirement;
18 and 2) use the provisions of the coverage plan applicable to
19 the member on the date of the first retirement; and

20 (c) the recalculated pension shall not
21 be less than the amount of the suspended pension.

22 D. The provisions of Subsection C of this section
23 shall not apply to a retired member who is appointed chief of
24 police of an affiliated public employer, other than of the
25 affiliated public employer from which retired, or who is

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1 appointed undersheriff if the retired member files an
2 irrevocable exemption from membership with the association
3 within thirty days of appointment. For purposes of this
4 subsection, each sheriff's office shall be limited to one
5 undersheriff. The irrevocable exemption shall be for the
6 chief of police's or the undersheriff's term of office.
7 Filing of an irrevocable exemption shall irrevocably bar the
8 retired member from acquiring service credit for the period of
9 exemption from membership.

10 E. The provisions of Subsection C of this section
11 shall not apply to any retired member who is subsequently
12 employed by an employer who is not an affiliated public
13 employer.

14 F. The provisions of Subsection C of this section
15 shall not apply to a retired member who is elected to serve a
16 term as an elected official if the retired member files an
17 irrevocable exemption from membership with the association
18 within thirty days of taking office. Filing of an irrevocable
19 exemption shall irrevocably bar the retired member from
20 acquiring service credit for the period of exemption from
21 membership.

22 G. The pension of a member who has three or more
23 years of service credit under each of two or more coverage
24 plans shall be determined in accordance with the coverage plan
25 that produces the highest pension. The pension of a member

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1 who has service credit under two or more coverage plans but
2 who has three or more years of service credit under only one
3 of those coverage plans shall be determined in accordance with
4 the coverage plan in which the member has three or more years
5 of service credit. If the service credit is acquired under
6 two different coverage plans applied to the same affiliated
7 public employer as a consequence of an election by the
8 members, adoption by the affiliated public employer or a
9 change in the law that results in the application of a
10 coverage plan with a greater pension, the greater pension
11 shall be paid a member retiring from the affiliated public
12 employer under which the change in coverage plan took place
13 regardless of the amount of service credit under the coverage
14 plan producing the greater pension, provided the member has
15 three or more years of continuous employment with that
16 affiliated public employer immediately preceding or
17 immediately preceding and immediately following the date the
18 coverage plan changed. The provisions of each coverage plan
19 for the purpose of this subsection shall be those in effect at
20 the time the member ceased to be covered by the coverage plan.
21 "Service credit", for the purposes of this subsection, shall
22 be only personal service rendered an affiliated public
23 employer and credited to the member under the provisions of
24 Subsection A of Section 10-11-4 NMSA 1978. Service credited
25 under any other provision of the Public Employees Retirement

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1 Act shall not be used to satisfy the three-year service credit
2 requirement of this subsection. "

3 Section 2. Section 10-11-69 NMSA 1978 (being Laws 1987,
4 Chapter 253, Section 69) is amended to read:

5 "10-11-69. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--AGE
6 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT. --Under
7 municipal police member coverage plan 3, the age and service
8 requirements for normal retirement are:

9 A. age sixty-five years or older and five or more
10 years of credited service;

11 B. age sixty-four years and eight or more years of
12 credited service;

13 C. age sixty-three years and eleven or more years
14 of credited service;

15 D. age sixty-two years and fourteen or more years
16 of credited service;

17 E. age sixty-one years and seventeen or more years
18 of credited service; or

19 F. any age and twenty or more years of credited
20 service; provided that five or more years are served in
21 municipal police member coverage plan 3, 4 or 5. "

22 Section 3. Section 10-11-75 NMSA 1978 (being Laws 1987,
23 Chapter 253, Section 75) is amended to read:

24 "10-11-75. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--AGE
25 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT. --Under

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1 municipal police member coverage plan 4, the age and service
2 requirements for normal retirement are:

3 A. age sixty-five years or older and five or more
4 years of credited service;

5 B. age sixty-four years and eight or more years of
6 credited service;

7 C. age sixty-three years and eleven or more years
8 of credited service;

9 D. age sixty-two years and fourteen or more years
10 of credited service;

11 E. age sixty-one years and seventeen or more years
12 of credited service; or

13 F. any age and twenty or more years of credited
14 service; provided that five or more years are served in
15 municipal police member coverage plan 3, 4 or 5. "

16 Section 4. Section 10-11-81 NMSA 1978 (being Laws 1987,
17 Chapter 253, Section 81) is amended to read:

18 "10-11-81. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--AGE
19 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT. --Under
20 municipal police member coverage plan 5, the age and service
21 requirements for normal retirement are:

22 A. age sixty-five years or older and five or more
23 years of credited service;

24 B. age sixty-four years and eight or more years of
25 credited service;

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1 C. age sixty-three years and eleven or more years
2 of credited service;

3 D. age sixty-two years and fourteen or more years
4 of credited service;

5 E. age sixty-one years and seventeen or more years
6 of credited service; or

7 F. any age and twenty or more years of credited
8 service; provided that five or more years are served in
9 municipal police member coverage plan 3, 4 or 5. "

10 Section 5. Section 10-11-99 NMSA 1978 (being Laws 1987,
11 Chapter 253, Section 99) is amended to read:

12 "10-11-99. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--AGE
13 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT. -- Under
14 municipal fire member coverage plan 3, the age and service
15 requirements for normal retirement are:

16 A. age sixty-five years or older and five or more
17 years of credited service;

18 B. age sixty-four years and eight or more years of
19 credited service;

20 C. age sixty-three years and eleven or more years
21 of credited service;

22 D. age sixty-two years and fourteen or more years
23 of credited service;

24 E. age sixty-one years and seventeen or more years
25 of credited service; or

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1 F. any age and twenty or more years of credited
2 service; provided that fifteen or more years are served in
3 municipal fire member coverage plan 3, 4 or 5. "

4 Section 6. Section 10-11-105 NMSA 1978 (being Laws 1987,
5 Chapter 253, Section 105) is amended to read:

6 "10-11-105. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4-- AGE
7 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT. -- Under
8 municipal fire member coverage plan 4, the age and service
9 requirements for normal retirement are:

10 A. age sixty-five years or older and five or more
11 years of credited service;

12 B. age sixty-four years and eight or more years of
13 credited service;

14 C. age sixty-three years and eleven or more years
15 of credited service;

16 D. age sixty-two years and fourteen or more years
17 of credited service;

18 E. age sixty-one years and seventeen or more years
19 of credited service; or

20 F. any age and twenty or more years of credited
21 service; provided that fifteen or more years are served in
22 municipal fire member coverage plan 3, 4 or 5. "

23 Section 7. Section 10-11-111 NMSA 1978 (being Laws 1987,
24 Chapter 253, Section 111) is amended to read:

25 "10-11-111. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5-- AGE

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1 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT. -- Under
2 municipal fire member coverage plan 5, the age and service
3 requirements for normal retirement are:
4 A. age sixty-five years or older and five or more
5 years of credited service;
6 B. age sixty-four years and eight or more years of
7 credited service;
8 C. age sixty-three years and eleven or more years
9 of credited service;
10 D. age sixty-two years and fourteen or more years
11 of credited service;
12 E. age sixty-one years and seventeen or more years
13 of credited service; or
14 F. any age and twenty or more years of credited
15 service; provided that fifteen or more years are served in
16 municipal fire member coverage plan 3, 4 or 5."